UNITED
NATIONS

CRC

Convention on the
Rights of the Child

Distr.
GENERAL

CRC/C/SR.363
26 March 1997

ENGLISH
Original: FRENCH

COMMITTEE ON THE RIGHTS OF THE CHILD

Fourteenth session

SUMMARY RECORD OF THE 363rd MEETING

Held at the Palais des Nations, Geneva,
on Monday, 20 January 1997, at 10 a.m.

Chairperson: Mrs. BELEMBAOGO

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GE.97-15286 (E)

The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 4) (continued)

Initial report of New Zealand (continued) (CRC/28/Add.3; HRI/CORE/1/Add.33; CRC/C/Q/NZ1.1 (List of issues); written replies by the Government of New Zealand with no document symbol, in English only)

1. At the invitation of the Chairperson, the New Zealand delegation took a place at the Committee table.

2. The CHAIRPERSON welcomed the New Zealand delegation and invited it to introduce New Zealand's initial report (CRC/C/28/Add.3).

3. Ms. GIBSON (New Zealand) said that her country was determined to fulfil the obligations it had assumed under United Nations human rights instruments and to protect and promote fundamental rights, including the rights of the child. It had ratified the Convention on the Rights of the Child on 13 March 1993 and its legislation and practices were in conformity with that instrument.

4. In supplementing the information set out in document HRI/CORE/1/Add.33, she explained that in 1994 New Zealand's population had been 3.66 million, of whom about 23 per cent were under 15 years of age. The population was highly urbanized and becoming ethnically much more diverse. The economic crisis of the 1980s had to a large extent been overcome and the Government was once again able to concentrate on certain key social issues. She noted, for example, that the number of Maori and women members of Parliament had increased as a result of the recent adoption of the mixed member proportional representation system.

5. One of the main components of the legal framework within which New Zealand implemented its obligations under the Convention was the Children, Young Persons and Their Families Act of 1989. It was an innovative instrument since it required that decision-making power in respect of children should be shared between social workers and family members in the best interest of the child. The Act also contained provisions on youth justice policy which were in line with the requirements of article 40 of the Convention and which strongly emphasized diversion from statutory processes. The Act was also innovative in that it recognized the need for services and processes to be culturally appropriate, particularly in respect of Maori, and that it was based on the concept of the family in the broad sense. Moreover, the appointment of a Commissioner for Children had placed New Zealand at the forefront of efforts to promote human rights. She added that the Commissioner's research on children's experience of violence had been used in drafting the Domestic Violence Act of 1995.

6. Other New Zealand statutes designed to protect and promote human rights in general included the Human Rights Act of 1993, the New Zealand Bill of Rights Act of 1990, and the Privacy Act of 1993; a Privacy Commissioner had also been appointed. The compatibility of administrative practice with the

Human Rights Act was to be evaluated before the year 2000 and would cover, for example, the use of age to determine social welfare entitlements for children as well as youth rates of pay.

7. Primary and secondary education for children between 5 and 19 years of age was free and the number of children completing their secondary education was increasing. The 1996 budget provided for the additional spending of NZ$ 206 million over a period of three years for the education of children with special learning needs. That additional support would be provided either on an individual basis or through the operational grant to all schools. Maori education programmes had also been boosted with NZ$ 17.6 million. Lastly, in 1996 the Education Act of 1989 had been amended in the light of the Convention; for example, students facing suspension or expulsion from school now had the right to appeal.

8. New Zealand had a comprehensive range of child and family health services and most primary health services for children were free. The authorities were particularly aware of the danger of traffic accidents and a campaign launched with the assistance of the Plunket Society had been of help to parents in equipping their cars with restraints for children. As regards efforts to reduce smoking, a bill had been submitted to Parliament in 1996 raising the age at which tobacco could legally be sold to young persons from 16 to 18. The sale of single cigarettes and small packs of tobacco was also to be banned. An additional NZ$ 11.5 million was to be spent over three years to make young persons more aware of the dangers of tobacco. Similar programmes would be directed at young expectant mothers and young Maori women. The authorities, insurance companies and various agencies were also undertaking accident prevention campaigns. Lastly, the authorities had taken measures to promote the mental health of and prevent suicide among young persons, and a specific strategy was being developed to that end.

9. As for social welfare in general, she explained that funding for the Children and Young Persons and Their Family's Service had been increased by NZ$ 11 million since 1995. Appropriations for the Office of the Commissioner for Children were also increasing steadily, and under the 1996 budget over NZ$ 7.9 million had been allocated to new community initiatives, and particularly for expanded out-of-school care programmes and adolescent sex offenders intervention services.

10. The new Government formed in December 1996 following the first election under the proportional representation system had announced several initiatives in respect of children. Expenditure on education would be increased by over NZ$ 800 million by the year 2000 and an additional amount of NZ$ 10 million would be allocated to early childhood education. Moreover, a Maori Education Commission would monitor progress in Maori education.

11. Health services would also be improved and it was intended to provide for free doctor's visits and prescription medicine for children up to the age of five. At the local level, some primary health-care services would be provided by family health teams. A senior official of the Ministry of Health would be responsible for coordinating priority child health activities and additional expenditure of up to NZ$ 30 million would be used to finance the

new initiatives. A Maori health promotion unit had also been proposed and priority activities designed to promote child health would be reviewed in 1997.

12. In the welfare sector, all measures to promote the interests of the family and the child would be coordinated by a family service which would initially be allocated a budget of NZ$ 70 million. New violence prevention programmes were envisaged, as well as greater financial support for needy families. Children would also benefit, either directly or indirectly, from various other measures proposed, particularly in respect of child support, employment, housing and wages, as well as from various other initiatives (such as associating the armed forces with the training of young persons).

13. All those measures clearly revealed New Zealand's determination to comply with its obligations under the Convention.

14. Mr. HAMMARBERG asked whether the new Government would do everything possible, regardless of the economic situation, to achieve its objectives under the budget for the social sector, and whether in-depth studies had been carried out to evaluate the impact on children of the economic policy pursued since the mid-1980s as well as the needs of the most vulnerable segments of the population on which the Government intended to concentrate its efforts as a matter of priority. It would be useful in that connection to know how the Government made sure that disadvantaged groups actually received the assistance made available for them. He also asked what was being done by the Government within the limits of available budgetary resources to implement the rights recognized in the Convention and whether the specific interests of children were taken into account when the national budget was prepared. Lastly, he wished to know how the activities of the various ministries and agencies dealing with children, and particularly those of the Commissioner for Children, were coordinated.

15. Mrs. SANTOS PAIS said it was gratifying to know that a Commissioner for Children had been appointed, that a Human Rights Commission examined complaints submitted by children, that the Human Rights Act prohibited discrimination based on age and that there was a body, namely the Education Review Office, which evaluated the education provided in schools.

16. She requested the New Zealand delegation to indicate whether the Government intended to withdraw the three reservations it had formulated in respect of the Convention. The first, according to which nothing in the Convention would prevent the Government from continuing to make a distinction between persons on the basis of their status in New Zealand, appeared incompatible with article 2 of the Convention as well as with article 22, which placed States parties under a duty to provide appropriate protection and humanitarian assistance to children seeking refugee status. In its second reservation, the New Zealand Government took the view that the rights of the child embodied in article 32, paragraph 1, were duly protected by existing legislation and reserved the right not to adopt the additional measures set out in article 32, paragraph 2. Yet the measures contained in that paragraph were extremely important since they were intended to protect the child against any work likely to be hazardous, or to interfere with his education or to be harmful to his health or physical, mental, spiritual, moral or social

development. Lastly, in its third reservation the Government reserved the right not to apply article 37 (c) when, for want of adequate facilities, it was impossible to separate children deprived of liberty from adults. It was stated in that respect in paragraph 361 of the report that separate youth prisons would inhibit reintegration because offenders would have to be moved away from their communities. In that connection she emphasized that the imprisonment of children should be used only as a measure of last resort (art. 37 (b)) and that if that step was necessary, young detainees could very easily be separated from adult detainees within the same prison. It could be possible for a child deprived of liberty not to be separated from adults only if the authorities considered such action to be in his best interests - for example if the parents had also been sentenced to a term of imprisonment.

17. It would indeed be useful to know whether the activities of the many ministries and bodies dealing with children were duly coordinated. For example, it was stated in the report that the Ministry of Youth Affairs dealt with young persons between 12 and 25 years of age and she wondered which body dealt with children under 12 years of age. Lastly, she would like to know whether the Commissioner for Children had the financial and human resources as well as the political independence necessary to carry out his task properly.

18. Mr. MOMBESHORA asked whether New Zealand intended to adopt a national plan of action, in accordance with the recommendations of the World Summit for Children, whether the results of the survey of the situation of children were known and what proportion of the population lived below the poverty threshold.

19. Mrs. BADRAN expressed the hope that New Zealand's reservations in respect of the Convention would be withdrawn and that, before embarking on economic reforms, the Government would endeavour to anticipate and prevent their possible negative economic, social and political impact on the most vulnerable segments of the population, and particularly children. She also asked whether the Government's action in providing non-governmental organizations (NGOs) with subsidies and purchasing certain services from them might not limit their independence, what human rights training was received by social workers, what were the main causes of suicide, in which segments of the population the suicide rate was the highest and what steps were being taken to improve the situation.

20. Miss MASON asked whether Maori had retained some of their customary laws and, if so, whether they took precedence over national laws which were at variance with them, and whether the Ministry for Maori Development was staffed exclusively by Maori.

21. Referring to the measures taken to make the Convention widely known (paras. 12 to 15 of the report), she wondered how far children were associated with that initiative and whether the booklet on children's rights and adult responsibilities mentioned in paragraph 14 of the report had been distributed in all schools and, if so, whether the results had been positive.

22. Lastly, with respect to discrimination against persons who were not of European origin, she asked what steps were being taken, in accordance with article 29 of the Convention, to develop the child's respect for tolerance in general and for civilizations different from his own in particular.

23. Mrs. SARDENBERG asked to what extent the Government's policy for children was influenced by NGOs and civil society and what specific role was played by the Ministry of Youth Affairs.

24. In its reply to question 2, the delegation had mentioned the Select Committees of Parliament, and she wondered what the mandate of those committees was and whether Parliament had committees responsible specifically for children's affairs. Furthermore, in its reply to question 3, the delegation had recognized that the development of a strategy involving both users and suppliers of statistics on children would provide more consistent and accurate figures; had the new Government taken any steps in that direction? Lastly, paragraph 12 of the report stated that some New Zealanders were concerned that the Convention would interfere with their rights as parents and that the Government had assured them that ratification would not mean a change in the relationship between parents and their children. Yet one of the Convention's objectives was precisely to establish a new relationship in that respect. It would be interesting to know what the delegation had to say on the subject.

25. Mrs. EUFEMIO, while welcoming the increase in appropriations for children, said it was unfortunate that, in the absence of accurate indicators, it was difficult to evaluate exactly how actual services had improved. Moreover, in view of the delegation's statement that decision-making power in the area of child protection would be shared between social workers and family members, she wondered how social workers, accustomed to dealing with social welfare matters, would be trained to monitor the implementation of the rights embodied in the Act. Were there enough such workers, despite cutbacks, to provide services to the entire population, including the inhabitants of the most remote islands?

26. She also wondered whether all the articles of the Convention had been duly analysed with a view to the collection of targeted data and the preparation of the combined indicators that were indispensable if the proposed plan of action was to be followed up. Lastly, she wondered how budgetary policy, which was apparently designed to accord priority to the most disadvantaged children, affected families whose incomes placed them just above the poverty level.

27. Mrs. KARP wondered whether the evaluation of economic policies from the standpoint of their impact on the situation of children was carried out on the basis of traditional indicators such as the poverty level, the unemployment rate or housing conditions. Moreover, she wondered how the trend to privatize services in New Zealand affected the situation of children and whether the implementation of social policies for indigenous minorities would continue in that context.

28. Noting that the provisions of the Convention applied to children up to the age of 18, she asked whether the New Zealand authorities had considered adopting a system of statistics more compatible with that cut-off age. She also asked what guarantee there was of the independence of the Commissioner for Children, for it was her understanding that his resources were provided by one of the services for which he was responsible and not by an independent outside body. Lastly, she would like to know how social workers and various

categories of officials in general were instructed in the principles of the Convention, what was the status of the Convention in national law, whether its text had been disseminated in the languages of various ethnic groups and whether the impact of its implementation on children of ethnic minorities had been evaluated.

29. Mr. KOLOSOV requested clarification of the proposed extension of the scope of the Convention to Tokélaou.

30. Ms. GIBSON (New Zealand), replying to an initial series of questions on the coordination of various activities on behalf of children, explained that the reform of the public sector had consisted in assigning increased responsibility to the senior officials of ministries and that corresponding procedures for the establishment of reports on the basis of the responsibilities and objectives thus established had been introduced. Consultations also took place between the senior officials responsible for various sectors in order to ensure that any action taken was complementary. Cooperation was particularly close between the Ministry of Social Welfare, the Ministry of Education, the Ministry of Health, the judiciary and the police in respect of activities affecting children.

The meeting was suspended at 11.55 a.m. and resumed at 12.10 p.m.

31. Ms. GIBSON (New Zealand), resuming, said that there was one official in most government bodies who was assigned the task of monitoring specific aspects of policies that might affect the situation of children. Moreover, persons responsible for the elaboration of policies were paying increasing importance to the integration of the evaluation procedures in their work.

32. From a budgetary standpoint, the new Government was deeply committed to the achievement of its objectives, but a number of political hurdles had yet to be overcome.

33. Mr. LISTER (New Zealand), replying to the questions put by members of the Committee concerning the reservations entered in respect of the Convention (see paras. 336, 360 and 368 of the initial report), said that the sole purpose of the first reservation was to permit the application of the necessary measures against persons who were illegally on New Zealand territory, in accordance with the internationally-recognized principle that a sovereign State should be able to control its frontiers. The reservation in respect of article 37 (c) of the Convention was designed to authorize, in the best interests of the child, the holding of children and adults together in prison as offering the best possible solution. As for the reservation in respect of article 32 of the Convention, he referred to the text of the written reply to the Committee's first question, and added that the New Zealand authorities were still giving thought to the possible withdrawal of the three reservations or at least one or two of them.

34. Mr. ANGUS (New Zealand), responding to the request for additional information about the functions of the Commissioner for Children, said that his independence was guaranteed by the Children, Young Persons and Their Families Act. The Commissioner was responsible exclusively to the Ministry of Social Affairs and was at liberty to comment on the Government's policy as he

saw fit. The fact that his workload had increased considerably during the past few years indicated that machinery for evaluating complaints was well established. Furthermore, his budget had been increased, from NZ$ 550,000 in 1995-1996 to NZ$ 790,000 in 1996-1997. In 1992 the Government had considered the possibility of making the Commissioner responsible to Parliament but had decided that that would not increase his influence or efficiency. Nevertheless, the matter was to be reviewed in the near future.

35. He also explained that, generally speaking, and on the basis of agreements, the Government financed NGOs which provided services in respect of a specific objective. That procedure reflected a long-standing tradition in New Zealand, but the NGOs could remain completely independent. It was obvious however, that if financing by the authorities were to increase, NGOs would tend to be less critical of them.

36. The CHAIRPERSON invited members of the Committee to comment on the first series of replies.

37. Mr. HAMMARBERG said it would be useful to know what overall strategy the New Zealand Government had adopted in its efforts to provide a better understanding of the interaction between various ministries and agencies dealing with children, and suggested that it might well consider introducing a specific national plan of action for children. Moreover, it was difficult to understand how NGOs could preserve their independence if they were financially dependent on the Government.

38. Mrs. SANTOS PAIS said that New Zealand's clear-cut commitments to children were most gratifying. Unfortunately there appeared to be a certain lack of coordination between various ministries and government bodies, and priorities in that area should therefore be identified more clearly by the new Government. She failed to understand the reason for New Zealand's first reservation since its purpose was not, according to the delegation, to deprive refugees and asylum-seekers of the protection afforded by the Convention. She took note of the reservations entered in respect of article 37 (c) in view of the need to separate children deprived of liberty from adults, but wondered whether it would not be better for the New Zealand Government to emphasize the reintegration of such children in society.

39. Miss MASON endorsed the views expressed by the previous speaker, and asked whether the New Zealand Government had considered adopting specific measures for the reintegration of young delinquents into society.

40. Mrs. SARDENBERG supported the observations made by other members of the Committee. She regretted the absence of a global strategy and integrated policy for children and that, for example, 94 per cent of the inhabitants of mountainous regions had never heard of the Convention.

41. Ms. GIBSON (New Zealand) explained that the coordination policy for children was based on a government document entitled Strategic Result Areas, which described the various mechanisms introduced in that connection for 1994-1997; however, some improvements were admittedly possible, particularly as regards the evaluation of policies for children. NGOs were participating in the elaboration and implementation of government policies on children's

rights, and cooperation had been established with some of them with a view to the preparation of the initial report. That cooperation was continuing and was proving useful.

42. The CHAIRPERSON invited members of the Committee to put questions on the sections of the list of issues entitled "Definition of the child" and "General principles".

43. Miss MASON asked whether the New Zealand Government had identified the causes of the high suicide rate among young girls. Was it connected with the sexual harassment mentioned in paragraph 312 of the initial report?

44. Mrs. SANTOS PAIS wondered whether the Children, Young Persons and Their Families Act of 1989 took into account all the provisions of the Convention and whether it was evaluated from time to time. Referring to the question of the age of criminal liability, she emphasized that it should be brought into line with the legal age of the child in accordance with the provisions of the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules). Moreover, it would be useful to consider the possibility of placing young delinquents in re-education centres, rather than keeping them in prison, and providing for their reintegration in society in the spirit of article 37 of the Convention.

The meeting rose at 1.05 p.m.